

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

77-1110

In The
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NO. 77-1110

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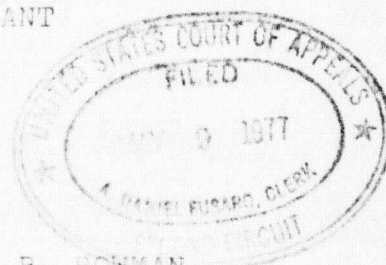
UNITED STATES OF AMERICA,
APPELLEE,

-VS-

JOHN MARK WEBB,
APPELLANT.

On Appeal From The United States District Court
For The District Of Connecticut

APPENDIX TO BRIEF FOR APPELLANT



ANDREW B. BOWMAN
FEDERAL PUBLIC DEFENDER
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NEW HAVEN, CONNECTICUT 06510
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ATTORNEY FOR APPELLANT

PAGINATION AS IN ORIGINAL COPY

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OFFENSE NO. 0507
MEANOR MIS. 20503
FELONY FEL. X

WEBB, JOHN M.

Case Filed
Mo. Day
1028
No. of Defs.
1

RCZ

76 N-76-134 1

U.S. MAG
CASE NO.

TRIAL • RELEASE

☐ AMT ☐ Fugitive
Denied Set ☐ Pers. Recog

\$25,000 ☐ PSA

Date ☐ 10% Deposit

10/28/76 ☐ Surety Bond

☐ Bail Not Made ☐ Collateral

☐ Status Changed (See Docket) ☐ 3rd ☐ Other

U.S. TITLE SECTION
18:2113(a) took money from bank by force 1
18:2113(b) took money from bank w/int. to steal 1
18:2113(d) put lives in jeopardy with weapon 1

OFFENSES CHARGED

ORIGIN COUNTS

II KEY DATES & INTERVALS

ARREST or	INDICTMENT X	BRAIGNMENT	TRIAL
U.S. Custody Began	Indictment Date 10/28/76	11/9/76	1/18/77
Summons Served	Indict. Waived	11/11/76	1/25/77
First Appearance	In Charging District	Final Plea	1/28/77

SENTENCE
Disposition of Charges 1/28/77
☒ Convicted ☒ On All Charges ☐ Acquitted ☒ In Lesser Offense(s) ☐ Dismissed ☐ WOP ☐ V

MAGISTRATE	
Search Warrant Issued Summons Issued Arrest Warrant Issued COMPLAINT OFFENSE (in Complaint)	DATE 10/21/76 10/21/76
INITIAL/NO	INITIAL APPEARANCE DATE PRELIMINARY EXAMINATION OR REMOVAL HEARING Date Scheduled Date Held Tape Number
INITIAL NO	OUTCOME ☐ DISMISSED HELD FOR GO OR OTHER PROCEEDING IN THIS DISTRICT HELD FOR GO OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst

ATTORNEYS

Defense: ☐ AIA ☐ Ret ☐ Waived ☐ Set ☐ None / Other ☒ PD ☐ CD

Peter C. Dorsey
Michael Hartmere

Andrew B. Bowman, 770 Chapel Street, New Haven.

* Show last names and suffix numbers of other defendants on same indictment information.

DATE	(DOCUMENT NO.)	PROCEEDINGS	EXCLUDABLE DELAY (a) (b) (c) (d)
10/28/76		Indictment returned at Hartford and filed in New Haven. Deft. presently in custody in California. Magistrate in California set bond at \$25,000.00 full surety. Bench warrant to issue and bond set at \$25,000 with full surety. Eagan, M.	
10/28		Bench warrant issued and handed to U. S. Marshal in Hartford.	
10/29		Copy of Magistrate's Warrant of Arrest, Complaint and Affidavit of William A. Allen, Jr., filed.	
11/5		U. S. Magistrate's papers, filed: Warrant of Arrest.	
11/9		Notice of readiness filed by Government,	
11/9		Marshals return of service filed. (warrant of removal on complaint or information).	
11/9		PLEA: Plea of <u>not guilty</u> entered to Counts 1, 2 and 3. Case continued for trial to Dec. 7, 1976. Deft. will move to reduce bond, which shall be heard (con	

DATE
1976

IV. PROCEEDINGS (continued)

PAGE TWO

V. EXCLUDABLE DELAY

11/9 (contd) at the earliest convenient time. Zampano, J. m-11/9/76
 11/9 Notice of Readiness, filed by Govt.
 11/16 Motion for Psychiatric Examination, filed by deft.
 11/17 Order, filed and entered. It is hereby ordered that Dr. Rubenstein be granted access to the deft. for the purpose of conducting a psychiatric examination of the deft. on the issue of his responsibility at time of the offense, It is further ordered that the said examination be started within 10 days of the date of this order. Zampano, J. m-11/17/76. copies mailed to counsel and cert. copies handed to U.S. Marshal.
 11/18 Financial Affidavit, filed by deft.
 11/18 Marshal's non est return, filed: Warrant for Arrest of Deft.
 11/22 Motion for Psychiatric Exam, filed by govt.
 11/22 Motion to Suppress Tangible Objects, Motion to Suppress Photographic and In Court Identification, Motion to Suppress Oral Statements, filed by deft.
 11-23 Objection to Govt's Motion for Psychiatric Exam, filed by deft.
 11/24 Court Reporter's Notes of Proceedings (Plea) held on Nov. 9, 1976, filed. Russell, R.
 11/26 Marshal's return showing service, filed: Order for Psychiatric Exam.
 12/7 Memorandum in Support of Motion to Suppress Oral Statements, Memorandum in Support of Motion to Suppress Tangible Objects, and Memorandum in Support of Objection to Govt's Motion for Psychiatric Exam, filed by deft.
 " " Memorandum in Support of Motion to Suppress Photographic and In Court Id, filed by deft.
 12/14 On RCZ's Jury Assignment List: Ready. Zampano, J. m-12/14/76.
 12/14 Objection to Govt's Motion for Psychiatric Exam endorsed: Objection withdrawn in open Court. Zampano, J. m-12/15/76. copies mailed to counsel
 12/14 Order of Psychiatric Examination, filed and entered. Zampano, J. m-12/15/76. copies mailed to counsel two cert. copies handed to U.S. Marshal.
 12/20 Court Reporter's Sound Recording of Proceedings (PLEA) held on Nov. 9, 1976, filed. Russell, R.

Excludable Delay (a)	Excludable Delay (b)	Excludable Delay (c)	Total Days (d)
3	11/16/76	G	
3	11/17/76	G	1
3			
3	11/23/76	G	
3			
3	12/7/76	G	
3	12/14/76	G	22

VI. FINE AND RELOCATION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

V. EXCLUDABLE DELAY

(a) | (b) | (c) | (d)

DATE 1977	PROCEEDINGS (continued)	(a)	(b)	(c)	(d)
1/18/77	JURY TRIAL COMMENCES: 12:15 P.M. Oath on Voir Dire administered. 57 jurors respond to roll call. Three jurors excused for cause. Court describes case to the jury. Four jurors excused for previous commitment. Counsel to exercise their peremptory challenges to the remaining 49 jurors. Govt. allowed eight challenges and deft. allowed twenty. Twelve jurors and two alternates impanelled and sworn. 1:40 P.M. Jurors in this case excused until 1/25/77 at 10:00 A.M. 1:40 P.M. Court adjourned. Zampano, J. m-1/19/77.				
1/18	On RCZ's Jury Assignment List: Deft's Submission of Voir Dire Questions, filed. Ready. Jury to be selected. Evidence to commence on 1/25/77. Zampano, J. m-1/19/77				
1/24	Court Reporter's Notes of Proceedings (Jury Selection) held on 1/18/77, filed. Russell, R.				
1/24	Marshal's return showing service, filed: Subpoena to Produce.				
1/25	JURY TRIAL CONTINUES: 10:40 A.M. Deft's Pending Motions are withdrawn. Deft.'s Motion to Sequester witnesses-granted. 10:50 A.M. 14 jurors present. Nine govt. witnesses sworn and testified. Govt. Exs. one thru nineteen, filed. Deft's request to charge, filed. Counsel stipulate as to testimony of Albert Prato. 3:15 P.M. Govt. rests. At side bar Motion for Judgment of Acquittal-denied. One deft. witness sworn and testified. Deft. Exs. A & B, filed. 3:44 P.M. Jury excused until 2:00 P.M. of 1/26/77. 3:44 P.M. Court adjourned in this matter, until 12:00 P.M. of 1/26/77. Zampano, J. m-1/26/77.				
1/26	JURY TRIAL CONTINUES: 12:10 P.M. Court advises counsel of proposed Rulings on Requests to charge. 2:12 P.M. 14 jurors present. One deft. witness sworn and testified. 3:51 P.M. Deft. reqts. 3:52 P.M. Jury excused until 10:00 A.M. of 1/27/77. Court hears counsel on request to charge. 4:40 P.M. Court adjourned until 10:00 A.M. of 1/27/77. Zampano, J. m-1/27/77.				
1/26	Marshal's return showing service, filed: (5) Subpoenas to Testify and (5) Subpoenas to Produce.				
1/27	JURY TRIAL CONTINUES: 10:05 A.M. Court advises counsel of proposed charge. 10:15 A.M. 14 jurors present. Four govt. rebuttal witnesses sworn and testified. Govt. Exs. 20 and 21, filed.				

over

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1977	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELA			
		(a)	(b)	(c)	(d)
1/27	12:29 P.M. Govt. rests in Rebuttal. Court and counsel discuss the charge. Govt. opens 2:10 to 2:26 P.M. Deft. closes 2:26 to 2:51 P.M. Govt. closes 2:51 to 2:59 P.M. 3:00 P.M. Jury excused until 10:00 A.M. of 1/28/77. 3:00 P.M. Court adjourned. Zampano, J. m-1/28/77.				
1/31	Marshal's return showing service, filed: Subpoena to Testify.				
1/28	JURY TRIAL CONTINUES: 10:20 A.M. Deft's Oral Motion for a Judgment of Acquittal on all Counts denied. 10:24 A.M. 14 jurors present. Courts charge 10:25 to 11:06 A.M. Alternate jurors excused by the Court. Jury retired to the jury room. Exceptions to charge noted by deft. Jury recalled for further instructions at 11:18 A.M. Further charge 11:19 to 11:20 A.M. Jury retired to jury room with Indictment and all full exs. to deliberate. 11:45 A.M. note from jury. 11:47 jury enters Courtroom 11:49 to 11:52 A.M. further charge given. Court Ex. 1, marked for ID. 4:45 P.M. Jury returns verdict of guilty as to Counts one and two, not guilty on Count Three. Verdict verified and ordered recorded. 4:51 Jury discharged. Deft. renews Motion for Judgment Of Acquittal-denied. Same bond to continue for sentencing on 2/28/77. 4:55 Court adjourned. Zampano, J. m-1/31/77.				
2/2	Motion to Suppress Photographic and In Court ID, Motion to Suppress Tangible Objects, and Motion to Suppress Oral Statements, endorsed: Withdrawn in Open Court. Zampano, J. m-2/2/77 copies mailed to counse.				
2/3	Marshal's return showing service, Subpoena to Produce.				
2/23	CJA Form 21 authorizing payment of \$300.00 to Dr. Marc A. Rubenstein, filed. Zampano, J. copies mailed to A.O. for pyament.				
2/28	DISPOSITION: Impr. 12 yrs. on Cts. one and two. Court recommends incarceration be at an institution where psychiatric help will be available to the deft as to either of the services provided at Springfield, Mo. or in Butner, N. C.. Deft is advised of his right to appeal. Appeal may be filed and deft. may proceed in forma pauperis. Zampano, J. m-2/28/77.				

DATE	PROCEEDINGS
1977	
3/1	Judgment and Commitment, filed and entered. Zampano, J. m-3/1/77 Two cert. copies handed to U.S. Marshal for service.
2/28	Notice of Appeal, filed by deft.
3-1	Certified copy of Notice of Appeal and docket entries together with Criminal Information form sent to Clerk, U.S.C.A..
3/4	CJA Form 21 authorizing transcript for appeal purposes, filed. Zampano, J. copies distributed.
12/10/76	Court Reporter's notes of proceedings held on 12/9/76, filed. (Russell, R.)
3/8/77	JS 3 mailed to A.O.
3/14	Copy of Scheduling Order from the U.S.C.A., filed and entered. Fusaro, C. m-3/14/77.

FILED

OCT 28 10 22 AM '75

CLERK
U.S. DISTRICT COURT
HARTFORD, CONN.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

v.

JOHN M. WEBB

:

:

:

CRIMINAL NO. N76-134

I N D I C T M E N T

The Grand Jury charges that:

COUNT ONE

On or about October 13, 1976, at Norwalk, in the District of Connecticut, JOHN M. WEBB, the defendant herein, wilfully and unlawfully did by force and violence and by intimidation take from the person and presence of another, money belonging to and in the care, custody, control, management and possession of the Union Trust Company, 700 Connecticut Avenue, Norwalk, Connecticut, the deposits of which were then insured by the Federal Deposit Insurance Corporation, in violation of Title 18, United States Code, Section 2113(a).

COUNT TWO

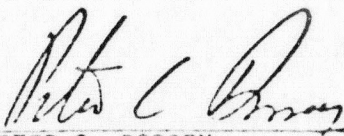
On or about October 13, 1976, at Norwalk, in the District of Connecticut, JOHN M. WEBB, the defendant herein, wilfully and unlawfully did take and carry away with intent to steal and purloin, money in excess of \$100.00 belonging to and in the care, custody, control, management and possession of the Union Trust Company, 700 Connecticut Avenue, Norwalk,

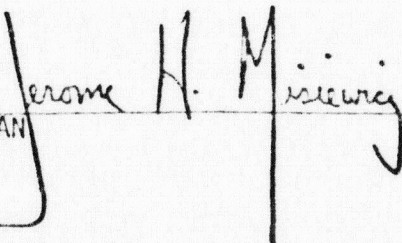
Connecticut, the deposits of which were then insured by the Federal Deposit Insurance Corporation, in violation of Title 18, United States Code, Section 2113(b).

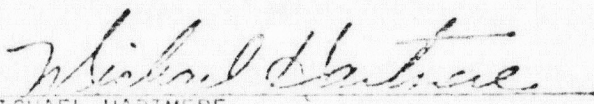
COUNT THREE

On or about October 13, 1976, at Norwalk, in the District of Connecticut, JOHN M. WEBB, the defendant herein, wilfully and unlawfully did by force, violence and intimidation, take from the person and presence of another, money belonging to and in the care, custody, control, management and possession of the Union Trust Company, 700 Connecticut Avenue, Norwalk, Connecticut, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and the defendant JOHN M. WEBB, in committing the aforesaid acts, did assault and put in jeopardy the lives of others by use of a dangerous weapon, that is, a pistol, in violation of Title 18, United States Code, Section 2113(d).

A TRUE BILL


PETER C. DORSEY
UNITED STATES ATTORNEY

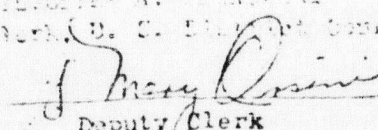
FOREMAN 


MICHAEL HARTMAN
ASSISTANT UNITED STATES ATTORNEY

A TRUE COPY
ATTEST:

STEPHEN A. HENNINGSEN
CLERK, U. S. District Court

By:


Deputy Clerk

Miller - cross

Q And there are some who are extremely ill and can carry on a conversation with you, isn't that true?

A Well, here we come into semantics. When you say carry on a conversation, there's a considerable difference between carrying on a conversation, such as you would be able to do with me, were you to so choose, and someone who is disoriented and confused and disjointed or talking utter nonsense, as the case may be. They're carrying on a conversation, but it's not a reasonable one.

Q So that what you are saying is that someone might be able to say some responsive words to you, but not necessarily be able to appreciate what you are saying to them and what they're saying to you?

A More or less.

Q So there is a difference between knowing what somebody says and appreciating what somebody says?

A No, not really.

Q Comprehending?

A This is a semantic difference with such an overlap that whereas at either end of such a statement, like "knowing" on the one hand, or "appreciating" on the other, that it is conceivable that one could nit-pick enough to find differentiation.

I think in the looseness of usage of the English

Miller - cross

language, "knowing" and "appreciating" pretty much interchange, mostly, but "appreciating" seems to be much more of a specialized legalese.

Q And that's your opinion, is that right?

A That's my opinion.

Q And you know that the law used to be whether or not a person knew the wrongfulness of his conduct, is n't that true?

A To the extent of my knowledge, since, obviously, I'm not an attorney, this still obtains in Superior Court, in the State Court, or at least I believe it does -- I can't say -- and I can only tell you that when I write reports for the State Court, I use "know" or "knew" where I might very well have used "appreciate", and this is simply my language, because I'm not sufficiently learned in the mazes of the law to make such a differentiation.

Q You know the old M'Naghten rule, don't you, Doctor?

A I more or less remember it, but --

Q A person knew right from wrong -- whether a person knew right from wrong, that was the question --

A Yeah.

Q -- isn't that true?

And you are aware, are you not, that there's been a tremendous amount of literature written in medical and legal journals with respect to why the law was changed to include the

Miller - cross

word "appreciate the wrongfulness of one's conduct"?

A I am -- I can't speak as to the legal journals. I know that there is a good deal of verbiage expended in what, to me, at any rate, are philosophical dissertations, which, from the standpoint of a physician practicing psychiatry, seem to have, you know, little value in terms of, again, what I believe, and, again, very frequently I use the word "believe" as related to "know", and this clearly could be picked apart semantically.

Q Your opinion is that it is semantics?

A Yes.

Q Nothing more?

A Well, let me put it this way: it is semantics insofar as the applications to which I might put it, whereas, perhaps some more scholarly person might be infinitely more precise in his selection of the exact word. Unfortunately, I'm not.

Q Do you know that the law requires the government to prove beyond a reasonable doubt that the defendant did not lack substantial capacity either to appreciate the wrongfulness of his conduct -- do you know that -- or to be able to conform his conduct?

A Well, if I didn't know it, I certainly know it now.

Q Did you know that when you wrote your report?

A Pardon?

Miller - cross

Q You didn't know that when you wrote your report?

A I really can't honestly say whether I knew that there was a difference between "know" and "appreciate" in terms of specific words used, since, to me, regardless of what it might be for someone else, I use them interchangeably.

Q Would you agree, Doctor, that emotional processes as well as intellectual processes play a part in the concept of appreciation?

A Well, clearly, there has to be some taking into account input from the various senses, otherwise, we wouldn't have things such as in school music appreciation courses.

Q And, really, the concept of "know" only takes into account what we call the cognitive quality, isn't that true?

A It would be fair to state that.

Q And "appreciation" is much more than that, is it not?

Not -- it is more than that. I would certainly admit it. But not in the manner which would be significant to the determination which it was my duty to attempt to arrive at.

Q Let's take an example. We have a biblical commandment: "Love thy neighbor as thyself." How many people would you say know that?

A Oh, it would seem to me that very few people do not know it.

Q And how many people would you say appreciate it? The

Miller - cross

same number?

A. Well, here, again, we start playing with words. I would think that anyone who knew that would appreciate it, whether or not they honored it.

Q. Let's say you have a parent who knows, who is convinced in his own mind that it is wrong to beat his child, and, yet, the child does something and the parent is so overcome with anger that he beats the child. Would you say at that moment that he appreciates the wrongfulness of what he's doing? Even though he knows it is wrong to beat that child?

A. I would not use either word, if you want to know the truth. I would say that he believed that what he was doing was against what he ordinarily went by, and may have had some remorse or guilt about it, but I don't know whether either "know" or "appreciate" would be as significant as, to me, the word "believe, since, clearly, this was a judgmental thing on his part.

Q. Overwhelmed by the emotion of the rage over what the child had done? Would that affect his appreciative processes?

A. Pardon?

Q. Would that affect his appreciative process?

A. I think that you had better get in a professor of English here. Again, I can't answer those questions with any degree of authority, since, clearly, my use of language is

Miller - cross

different than what you want me to use.

Q Well, it is not what I want you to use, Doctor, it is what the law requires you to use. Did you know that before you came to court to testify here as an expert?

A Only insofar as, to me, "know" and "appreciate" were the same, and if, in the course of dictation, I use the word "know" instead of using the word "appreciate" as far as I was concerned, it meant the same thing, and I can only apologize for offending your legal sense by using the wrong word.

Q Please don't apologize. Doctor, to you, it is nothing more than semantics, isn't that true?

A That's correct.

Q Doctor, do you agree with the report of the Royal Commission on Capital Punishment issued in 1953 that a criminal act may be coolly and carefully prepared, and yet be the result of a diseased mind?

A Yes, I do.

MR. BORMAN: Nothing further, your Honor.

THE COURT: Redirect.

MR. HARTMERE: I have nothing further, your Honor.

THE COURT: You are excused, Doctor Miller.

THE WITNESS: Thank you, your Honor.

(Witness excused.)

THE COURT: May I see counsel --

THE WITNESS: Excuse me one moment, your Honor, I don't know -- these are not mine.

THE COURT: Why don't you just leave everything there, take what's yours with you?

THE WITNESS: These are mine.

THE COURT: Fine. All right, Doctor.

May I see counsel side bar merely for scheduling purposes?

(Off the record conference at side bar.)

THE COURT: Ladies and gentlemen, we will have a couple of more witnesses, but apparently they're going to be very short, and we're right on schedule, so we're going to take a recess until the other witnesses get here.

The attorneys' best estimate is that we'll complete the testimonial evidence by one o'clock. We're going to have the summations this afternoon. That's stage two of the trial. The charge tomorrow morning, stage three, and then your deliberations immediately thereafter, stage four tomorrow, so we'll now take a recess. We anticipate at least about a 15-minute recess.

(Recess taken.)

(In the absence of the jury.)

THE COURT: Are the parties ready to proceed?

MR. BOWMAN: Your Honor, I do have one motion which I wish to make at this time with respect to Doctor Miller's

testimony.

THE COURT: Yes.

MR. BOWMAN: I move to strike his testimony on the grounds that as a medical expert, he could not differentiate between the knowledge aspect and the appreciation aspect of the legal test and, therefore, could not properly give an expert opinion with respect to whether or not Mr. Webb lacked substantial capacity to appreciate the wrongfulness of his conduct at the time of the crime.

THE COURT: Mr. Hartmere.

MR. HARTMERE: Well, I obviously would object to that, your Honor. The Doctor did testify extensively about his knowledge of the use of the words "know" and "appreciate". He testified that, in his opinion, psychiatric -- for psychiatric purposes, at least, there was matter of semantics, in his opinion, and he testified specifically that the defendant could appreciate his conduct at the time of -- the wrongfulness of his conduct. I think the testimony was clear and should not be stricken on that basis.

THE COURT: I think the defense reads much more into Doctor Miller's testimony with respect to a motion to strike, which is probably the most drastic motion that I could grant. Particularly with an expert.

Doctor Miller testified on direct, certainly right down the line, under the test. It was only under a very thorough

1 and, in some ways, argumentative cross-examination that we
2 started to get some distinctions between the words "know" and
3 "appreciate", but certainly not enough to strike his testimony,
4 but I would say sufficient to base some final arguments on the
5 part of the defense.

6 The motion is denied. Counsel are perfectly free, on
7 both sides, to pick up various weaknesses, shall I say, in the
8 expert's testimony and use them as best they can in arguing to
9 the jury. What weight the testimony should have is for the
10 jury, but the foundation is sufficient to allow the testimony
11 to come in, to be considered by the jury under the instructions
12 of law I will give them in my charge.

13 Are you ready to proceed?

14 MR. HARTMERE: Yes, your Honor.

15 THE COURT: Very well. Is there going to be an
16 objection to the testimony of the person who saw the defendant
17 the next day concerning some bank transaction?

18 MR. BOWMAN: I just don't -- I'm not exactly clear on
19 what the testimony is going to be, because I have no report.

20 THE COURT: Why don't we have a proffer before the
21 jury comes in? I recall that you did call a witness during the
22 case in chief, and Mr. Bowman indicated that the witness' testimony
23 would be irrelevant and incompetent, and you said, "Well, I'll
24 call her later."

25 MR. HARTMERE: Yes, your Honor.

STATE OF CONNECTICUT

FAIRFIELD HILLS HOSPITAL

NEW HAVEN, CONNECTICUT 06510

PLEASE ADDRESS ALL CORRESPONDENCE
TO THE SUPERINTENDENT

203 426-2531

January 20, 1977

The Honorable Jon Newman
Judge
United States District Court
P.O. Box 1824
New Haven, Connecticut 06508

Re: John M. Webb

Dear Judge Newman:

At the request of the U.S. Attorney's office I examined John M. Webb on December 29, 1976 at the New Haven Community Correctional Center. On examination I found Mr. Webb to be superficially quiet cooperative and alert. His affect was flat and disproportionate to his mood. He had an aura of mild anxiety but by and large both affect, mood and emotional content were not seriously aberrant from accepted norms. Thought process, however, had a distinct pathological flavor.

Past history indicates a considerable amount of acting out behavior as a juvenile which appeared to be related to a difficult home situation. At one point while in high school in Texas there was an arrest for possession of marijuana which resulted in a year's imprisonment in that state during which period the patient completed high school. Occupationally the patient had been involved variously as a laborer and as a musician. If it can be listed as an occupation, during the period that the patient was in California he also supported himself by homosexual prostitution. The sexual content of this patient's thoughts are quite bizarre.

Past history indicates that he had a couple of admissions to Stamford Hospital, that he had made several suicide attempts, usually with deliberate overdoses of heroin. He stated he had used LSD several years ago but there seems to be no indication of any possibility of "flashback" due to this drug.

During his hospitalization at Fairfield Hills Hospital he was diagnosed as schizophrenic. There is no question that there is at least a minimal underlay of schizophrenia easily detectable in the course of this examination, though some of the allegations made by the patient, including the statement that he hears voices of various types, may very well partly be true but in some of his statements seems to be more of an attempt at malingering even though there is no question of his underlying schizophrenia.

Re: John M. Webb

-2-

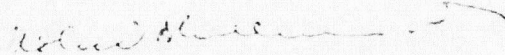
January 20, 1977

He states that at the time of his offense that he heard a voice telling him to "go ahead and do it." However, when asked the reason for his having committed the robbery he stated he wanted a stake in order to go out and make a new start in the music world.

In spite of his schizophrenia, which I believe is unquestionable, I can state with reasonable medical certainty based on my training and experience that Mr. Webb is not so insane as to be unable to understand the nature of the proceedings against him or to participate in his own defense.

In spite of his schizophrenia, I can state with reasonable medical certainty that he did not lack substantial capacity at the time of his offense to know the wrongfulness of his act or to conform his behavior to the requirements of law.

Yours truly,



Robert B. Miller, M.D.
Superintendent

RBM:ae

State of Connecticut)
ss: Newtown
County of Fairfield)

Subscribed and sworn to before me
this 20th day of January, 1977.


Notary Public

DISCHARGE SUMMARY

PATIENT'S NAME Webb, JOHN

DATE ADM. 1/22/73

MEDICAL RECORD NO. 590126

DATE DISCH. 2/16/73

This was the first South I and first psychiatric admission of this 21 year old white single male who was referred to us by the DuBois Clinic because of progressive feelings of emptiness, apathy and finally an inability to function. Shortly before admission he had contemplated suicide and had in fact taken a mild overdose of Librium. History revealed no prior overt psychiatric break. However, his premonitory personality and life style did indicate chronic difficulties in relating to people as well as being able to function vocationally. Shortly after graduation from high school he spent over a year in jail on a drug charge. He had had a short common law heterosexual relationship about three years ago. He fancied himself as a musician but his efforts over the last year or so to function in this capacity all failed. He states he plays the guitar and sings.

Mental Status confirmed the presence of feelings of apathy, emptiness. His affect was quite flat and at times hinted at being inappropriate. His thinking, too, was quite diffuse and there also were slight indications of loosening of associations. There was no evidence of delusions or hallucinations as such.

Physical Examination was unremarkable.

Laboratory Studies were within normal limits.

Operations - none.

Hospital Course - The patient was started on 25 mgs of Mellaril q.i.d. which was increased to 50 mgs t.i.d. It became apparent in the interview with Mr. Webb that he was quite impoverished and had a poor image of himself in the realm of sexual identification. He equated his potency as a male constantly with the size of his penis. He saw himself as basically boring to women and tried to compensate for this by playing the role of the entertainer. During his stay to some extent the primary symptom of schizophrenia which he manifested on admission did to some extent diminish. He seemed better integrated. There was less apathy and he would see himself as having the potential for functioning in the future. On the unit he tended to become involved with attractive female patients in a constant effort to try to bolster his impoverished sexual image of himself. He was discharged improved on no medication. The Mellaril had been discontinued because it tends to make him depressed and he rebelled against its use.

Prognosis for the immediate future was fair but guarded for the longer term.

Final Diagnosis: Schizophrenic reaction.

He was referred to the outpatient department for group therapy. In addition to this I intend to contact Vocational Rehabilitation for consultation with this agency. On discharge he is to temporarily live at home with his mother and brother and states he will be looking for work. He seemed to recognize that for the time being he might have to forgo working as a musician for the practical reality of subsistence.

Peter Schneidau
Peter Schneidau, M.D.

PS: 2-16-73
JBI: 2/20/73 cc: Vocational Rehab.
Engl. Clinic

PATIENT'S NAME

WEBB, John

C. TEADM.

1/2/75

MEDICAL RECORD NO. 625631

DATE DISCH.

5/10/75

History:

The patient is a 24 year old white male, single, admitted 8/9/75. At the time of admission he was preoccupied with sex, was hearing voices, had no job, no place to sleep and was generally unable to function. He had previously been on South 1 in January of 1973 with feelings of emptiness, apathy and inability to function and depressed thoughts. He was diagnosed as schizophrenic at that time. He was in California for a year or so then came back to Stanford. He is a musician but has not been working regularly. He had a common law wife in 1962 which gave rise to a child who is with the mother in Italy.

Hospital Course:

He talked of needing to be here in a very abstract way, to save the world, "I'm too horny and this makes me a danger." He talks vaguely about assaulting women, but not in a physical way but in a mental way. He was obsessed with sexual thoughts and fantasies. There was definite thinking disorder with moderately loose associations. He reported smoking marijuana for 6 years and has taken "acid" in the past, but not recently. He has also been on "speed" but not recently. Early in the admission he had both visual and auditory hallucinations and stated that he was picking up psychic mind waves and that an interesting word followed him around, the word "barney" and that it sounded like a witch was saying it. His affect was flattened and possibly depressed.

He was treated with Mellaril. His associations did improve but his preoccupation continued for some time. His grandiose about his physical sexual abilities and this was seen as a defense. It came out that he had always wanted to be closer to his mother than she would permit. She had very high expectations for him which he tried to live up to and failed at. Since then he has adopted passive-aggressive means to break free of her -- doing things that would upset her. By 8/19 he was somewhat better on the Mellaril and was more in control. He said that he liked the hallucinations "for inspiration". Vagueness and confusion were still present and he still thought he was clairvoyant. His associations started to improve. On 8/21 he was still psychotic and thought that light was coming out of the tips of his fingers. The Mellaril was increased to 800 mg. a day. As the Mellaril was increased further and the psychosis started to lessen his depression was not more. He was able to talk somewhat about his anger towards women but it was quite repressed and he showed resistance. A lot of his flattery or sycophancy toward women is clearly an idealization of their feelings and veiled hostility. On the Unit he was not terribly responsible in carrying out his responsibilities.

Patient related in a more serious mood that he doesn't know how to relate to people on any social level. He talked more and more about his loneliness but each time he did he would take it back after. He said at one time that it was really a big problem, as if his hostility were in conflict with his feelings. The more he talked about his chronic depression and unhappiness, the less his grandiose concern with his sexual nature as a defense. He volunteered that he had the attitude that whenever he exposes himself and his weaknesses (yet to be defined) he gets trampled on and taken advantage of. His mother came in and seemed quite uneasy and afraid of John's "mental illness". She did not ask questions which might have been appropriate.

The patient did not think very hard about his discharge planning and what he ought to do after discharge in spite of encouragement that he think about it. We felt that

PROJECT NO. 100-100000

6/1/50

DATE

11/12/50

page 2 -----

he wanted to strengthen his defenses rather than give them up. And understandably, if he gives up his image as a lady's man, he would feel that he was really "zero". Discharge had to be delayed because of his failure to make any constructive plans for where he would live or what he would do when he leaves here. We gave him 5 days to do so and warned him that he might have to be committed if he wasn't able to galvanize enough energy and goal directed activity to plan a course of action. He did a little job searching in the next few days but mostly worked on his mother to give him the money to stay at the "X". She was reluctant about it and she changed her mind several times but finally agreed. The staff and I felt that Fair Field Hills would not be therapeutic and that it would not be likely that he would be kept there very long, and since he had no overt thought disorders or psychosis at the time we decided to let him go out, to attend our Clinic.

Diagnosis: 1. Schizophrenia, paranoid type.

Discharge Condition: 1. Symptomatically improved.

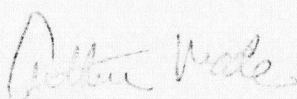
Prognosis: Very guarded.

Discharge Medications: 1. Mellaril 100 mg. t.i.d.
2. Cogentin 1 mg. b.i.d.

AM 10/29/50

by 11/3/50

cc: Mental Health Clinic


Arthur Wade, M.D.

THE STANFORD HOSPITAL

DOCTOR'S ORDERS

DATE

TIME

BY

TO

FROM

REMARKS

2/3

Admit to hospital
Admission to hospital
1st day

Prescribe 5 P.M.T.
in A.M.

Prescribe 10 P.M.T.
in A.M.

Prescribe 10 P.M.T.
in A.M.

Prescribe 10 P.M.T.
in A.M.

3/4

Prescribe 6 P.M.T.
in A.M.

3-4-92 Pt is a 34 yr old male who is single
 and lives alone. He was married to 31 after
 coming to ER. This eve stating that he is
 suicidal. Pt has depression and nervous
 disorder. He is not happy. Pt about
 stated that he has a "bad" feeling. Pt
 states that in the past year he has been
 experiencing periods of "bad" feeling. "People
 thought are telling to me" and "Bad" ideas
 of "bad" ideas. "Then thought seem to be about me".
 He stated that the thought are "telling" to
 him and that he doesn't know what to do
 for he doesn't know what to do. He has
 a "bad" feeling. He is not happy. He is
 feeling (he was unable to find the word about
 why) the ideas to be "sensitive" but he
 does not feel happy about the situation.
 Pt was put on 50 mg and asked to come in PM
 15-22. He will come in for a follow up.

4-16-92 10:00 AM Pt. 34 yr old male. T. 38.5, P. 100, R. 20, S. 10. Pt. is
 3-4-2 10:00 PM Pt. 34 yr old male. T. 38.5, P. 100, R. 20, S. 10. Pt. is
 all physical. He is not happy. He is feeling (he was unable to find the word about
 why) the ideas to be "sensitive" but he does not feel happy about the situation.
 Pt. was put on 50 mg and asked to come in PM 15-22. He will come in for a follow up.

3/10/19	3/10/19
---------	---------

1998

26

27. SIGNED BY PATIENT OR AUTHORIZED PERSON
DATE - ON RECORD ROOM COPY

DATE OF DEATH: 09-10-1987

1968 / YES

7-1098 AUTHORIZATIONS ON REVERSE SIDE MUST BE SIGNED BY PATIENT OR AUTHORIZED PERSON
HOSPITAL CHART ONLY - ON RECORD ROOM COPY

Fairfield Hills Hospital
Newtown, Connecticut 06470
FAIRFIELD HILLS HOSPITAL

CLINICAL SUMMARY

Case No. 055,443

Name JOHN WEBB

PAGE 1

DATA BASE

ADMISSION NOTE

MARCH 4, 1976 - John Webb is a 24 year old, caucasian who was admitted for the first time on a Physician's Certificate on 3-4-76, brought here by ambulance.

PRESENT COMPLAINT - Physician's Certificate states that patient was suicidal and has history of schizophrenia paranoid type, does not cooperate on outpatient treatment. Patient states he feels he is insane, has hallucinations and was preoccupied with set.

ON ADMISSION - Patient is alert, reluctant to interview, looks somewhat depressed. Dressed neatly and good personal hygiene. Said "I'm insane, want to group or individual therapy, paranoid". "Heard telepathy which scared me." Patient is superficial suspicious in conversation, and verbal productivity is decreased and information was obtained question and answer type. Flat affect. Preoccupied in set.

PHYSICAL FINDINGS - No remarkable abnormal findings. B.P. 120/80, P 92.

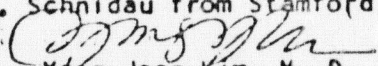
TENTATIVE WORKING DIAGNOSIS - 295.90 Chronic undifferentiated, Schizophrenia.

INITIAL TREATMENT PLAN - 1.) Admit to Kent House; 2.) Check 20 min. suicidal tendency.

JUSTIFICATION - 2.) Need for a limited period of active treatment in psychiatric hospital. Prognosis for discharge good.

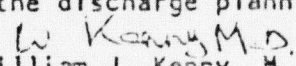
(II) Failure of outpatient treatment.

Comment - Referred by Dr. Schnidau from Stamford Hospital.


Yang Joon Kim, M. D.
Resident Psychiatrist

YJK:dtg

MARCH 4, 1976 - The admission note in this case has been reviewed by the undersigned. Marieta Bautista, M. D., Psychiatric Resident in Training, is assigned to the case and will be under my supervision. Cynthia Nielsen, P.S.W. I, has been designated as responsible for coordinating the discharge planning.


William J. Kenny, M. D.
Senior Staff Psychiatrist

WJK:dtg

The confidentiality of this record is required under Chapter 899, Section 52-146 of the Connecticut General Statutes. This material shall not be transmitted to anyone without written consent or other authorization as provided in the aforementioned."

SOCIAL SERVICE EVALUATION

MARCH 10, 1976 - INFORMANT: Information was provided the patient and appears to be reliable. No other informant was available at time.

RELATIVES: The patient's mother, Francis, lives at 226 Fifth St., Stamford. According to the patient she is suffering from multiple sclerosis. The patient has a brother living in Norwalk whom he sees on occasions.

FINANCIAL STATUS: The patient has held a variety of jobs. Prior to admission he states he was in training to become a school bus driver. He had also been referred by Stamford Hospital to the Rehabilitation Center in Stamford for assessment and possible training.

HISTORY: Mr. Webb states that he was a good student until he got to junior high school and then his increasing interest in girls and rebelliousness caused his grades to fall off somewhat. He did finish high school and took some college courses but states this "didn't work out." The reason for its not "working out" seems to have been the fact that at 18 he went to prison for one year for smuggling marijuana across the Mexican border. It was also during this time that the patient's father was hospitalized with a brain tumor and died. The patient states he was not as upset over this at the time as he has felt since then. Since then the patient has had many different jobs such as musician, laborer, dishwasher, etc. He has not stayed with any for too long nor has he made any close lasting attachments with others. He describes his main problem as "loneliness" and an inability to make friends. He did have a girlfriend whom he was seeing fairly steadily but they broke up recently due to "sexual incompatibility." The patient states that he loves sex, it is his "favorite sport" and his girlfriend was not meeting his needs - which he describes as "all the time."

Mr. Webb has used some drugs such as LSD but states within the last year he has used only marijuana.

PREVIOUS PSYCHIATRIC TREATMENT: The patient has been in Stamford Hospital South-1 three times in the past 2-3 years. This has usually been for suicidal ideation which he attributes to his "being a baby about life." He states when things are not going his way he tends to resort to "infantile things" such as threatening suicide. This is his first time in this hospital.

Cynthia Nielsen
Cynthia Nielsen
P.S.M. I

CN:dts

FAIRFIELD HILLS HOSPITAL

CLINICAL SUMMARY

Case No. 055, 443

Name JOHN M. WEBB

PAGE 3

PSYCHIATRIC HISTORY

March 10, 1976 - This is a 24 year old white divorced male who was brought here on a physician's certificate signed by Dr. Schneldau on 3/4/76 via ambulance.

INFORMANTS - patient himself who appears to be fairly reliable. Patient's mother, Mrs. Frances Webb who is given as correspondent, does not have any listed phone number so we could not get in touch with her at present.

PRESENT ILLNESS - According to this patient he was feeling depressed and he felt that he was going insane, that he was going out of his mind. That he felt that he should do something right away. The physician's certificate signed by Dr. Schneldau stated that this 24 year old white single male was admitted through the emergency room last night because of regressive withdrawal, culminating in a recurrence of feelings that "I am crazy" and suicidal ideations. John has two prior admissions, the latest last summer, diagnosed as paranoid schizophrenia. His sister is also typical of pre-occupation about sex. He feels compelled to have sex with every woman he sees; but unfortunately lost. Patient has really no treatment and tends not to follow up in out patient therapy. There is also a note on the physician's certificate stating that the staff at Stamford Hospital feels that the Fairfield Hills Hospital would be more therapeutic than another repetition of symptoms.

PAST HISTORY - FAMILY HISTORY - patient's father died six years ago while patient was in prison. He died of a brain tumor. He claims that he had pretty poor relationship with his father. He claims that his father scolded him a lot however he rebelled against his father. Despite the fact his father tried to do his best for him. Patient's mother is about 60 years old, at present working at the mayor's office in Stamford for the committee on community development. He described his mother as one healthy woman but is suffering from multiple sclerosis. He was at one time in a wheelchair for quite a while. Patient has one brother younger, who is 26 years old, single and living by himself in Norwalk. He is at present working. He is not involved in any drugs or alcohol. John, the patient is the elder one in the family and he was born in Stamford. He does not know much about his birth but then as far as he knows he is normal, spontaneously delivered without any feeding problem or any developmental abnormalities noted.

Education - patient finished one semester of college while he was in prison however he dropped his subject before finishing it. He said during that time he was very much involved with his wife since she was pregnant and so he was interested in what is happening to her. He finished his grammar education at Wilton and he finished his high school while he was in prison in Texas. Patient claims he did not repeat any of his classes and he used to be an excellent and smart student and as a matter of fact he was in an advanced class until 6th grade. After that he became very much involved in sports and he had less concentration in his academic classes. Later he lost his attention about sports and he paid more attention to girls until he

dropped school and was more concentrated with girls.

Psychosexual - patient was married once and was divorced after one year. He claims he knew the girl about one year before she married her at Texas. He claims that he married her because she was already pregnant. They have a daughter who is now 6 years old and living with his previous wife. His previous wife is now remarried. Patient denies any venereal disease exposure, he denies any homosexual experience. He claims that he learned about sex education from books and movies. He claims that he enjoyed his life with his wife and however he was later on frustrated sexually because her appetite for sex was not as strong as his. He claims that his wife has been complaining about his being oversexed and he claims she admits that he also feels that he is oversexed.

Military - patient was not drafted in the service.

Drugs & Alcohol - Patient has been used to smoke cigarettes about one pack per day. He started taking drugs at age of 13. He used marihuana, L.S.D., speed, heroin. At present he still takes marihuana once in a while. Patient said that he was never in a drug program. Patient started taking alcohol at age of 14 and he used to drink heavily while he was still younger. His last shot of alcohol was taken one week prior to admission. He claims he does not attend any AA meetings nor any other groups.

Employment - patient started working at age of 16 as dishwasher at Bob's Grill and stayed there for one year because he has another better job. He then worked doing dishwashing job at Silvermine Tavern where he stayed for only two months since he got fired for coming late. Then he worked at supermarket as stock boy for two months and was also fired for coming late to work. Then he worked with his brother doing as a tree surgeon and both of them worked for about 4-5 years. He claims he liked the job very much and they were given excellent pay. However he has to give up his job because he went into a group band where he plays the guitar. He stayed with that group for about two years. When this group went to W. Virginia he started having trouble with another group of boys and he started drinking alot and going to wild parties. He was then about 16 years old. Then he went with another group for about 4-5 years. In 1968 he moved to Texas to finish his high school however while he was there he was arrested for possession of marihuana, where he was arrested and put in jail for about one year. While in prison he finished his high school. In 1968 he was married in Texas and then he was trained as a bus driver. In 1971 he worked at the Listfas Coy Media Films for about one year and he got fired because he was arrested for possession of L.S.D. and his boss read it in the papers so he had to leave his job. In 1972 he worked as a handiman for a lady in Norwalk and during that time he lived with the same lady. After that he has gone to music with another group of boys. About 2-3 weeks prior to admission he trained as a bus driver however he did not make it.

PAST HISTORY - was never hospitalized for any medical or surgical reason. He has been hospitalized at Stamford Hospital two times, the first one was about four years prior to admission, last one was in summer of 1975. He stayed in that hospital approximately one month. She was taking thorazine and mellaril. During those times he had suicidal thoughts and took an overdose of medications four times in four years times

M. Bautista
M. Bautista M.D.
Psychiatric Resident

FAIRFIELD HILLS HOSPITAL

CLINICAL SUMMARY

Case No. 055,443

Name JOHN WEBB

PAGE 5

MENTAL STATUS

March 10, 1976 APPEARANCE ATTITUDE & GENERAL BEHAVIOR - Patient is well developed male caucasian with short straight hair and fair personal hygiene. He wears a pair of eyeglasses. He is appropriately dressed in pants and shirt. There were no unusual motor patterns nor any gross physical deformity noted. He went to the interview room without any hesitations. He is cooperative and tolerated the interview very well.

VERBAL BEHAVIOR - His speech is clear, relevant, coherent. He has average tone in speech, amount and rate.

AFFECT & EMOTIONAL REACTIONS - patient has flat affect. He appears depressed. He is pleasant to talk with and very cooperative.

CONTENT OF THOUGHT - patient claims that he feels sad and as if his energy is gone. He also admitted being depressed and claims that this is the effect of his medications. He claims that he stopped taking his medications because it was not the right drug for him and that he has to look for a job and cannot work with it and could not think well because of the effects of his medications. He claims that his fears in life is of how he would be able to go through life without being satisfied with his love and with life. He claims that he wanted to see his wife and to talk with her however he would not like to live with her anymore. On two occasions he claims that he did not really love his wife and he has been showing ambivalent feelings about her since he wanted to see his wife yet he claims he doesn't love her anymore. He claims that he was a happy man until four years prior to admission when he felt that his love life was lousy and that he never had any girlfriend as much as he loved her. Patient denies any ideas of reference nor any paranoid ideations. He just feels he is a loser. He denies any visual nor auditory hallucinations.

SENSORIUM - patient is oriented to time, place and person. He has no memory impairment. He has good fund of general information and he can do simple calculations.

INSIGHT JUDGMENT & RELIABILITY - Patient has some insight into his condition. His judgment and reliability are fair to good.

M. Bautista
M. Bautista M.D.
Psychiatric Resident

MB:Pvb

March 16, 1976 12 DAY RECERTIFICATION - Patient does not require psychiatric hospitalization as he will be discharged without any follow up soon.

W. Kenny M.D.
William Kenny M.D.
Staff Psychiatrist

WK:pvb

March 20, 1976 - Patient today is discharged from hospital. dts.

L. Keating H.S.

FAIRFIELD HILLS HOSPITAL
CLINICAL SUMMARY

Case No. 055,443Name John WebbPage 1

March 5, 1976 - UTILIZATION ADMISSION REVIEW - Stay certified for two weeks from date of admission on March 4, 1976. *D.D. Wheeler*
ddw

March 19, 1976 UR RECERTIFICATION- Recertify for four weeks based on requires active psychiatric treatment in structured hospital setting.

Yuruger
Yukser Yuruger M.D.
Physician Representative URC

YY:pvb

MARCH 17, 1976 - PRE-DIAGNOSTIC SUMMARY - This is a 24 year old, divorced, white male, who was brought here on a Physician's Certificate signed by Dr. Schneidau on March 4, 1976 via ambulance. According to the patient he was feeling depressed and he felt that he was going insane that he was going out of his mind. And that he felt that he should do something right away. The Physician's Certificate states that this patient was brought to the emergency room because of regressive withdrawal, culminating in a recurrence of feeling that "I am crazy" and suicidal ideations. Patient has 2 previous admissions diagnosed as paranoid schizophrenia. Patient feels compelled to have sex with every woman he sees but unfortunately lost. The referring physician stated that the staff at Stamford Hospital feels that the Fairfield Hills Hospital would be more therapeutic than another repetition of symptoms. And so the patient was committed to this facility.

On psychiatric examination patient is well developed, male caucasian, appropriately dressed in pants and shirt and appears his stated age. There is no unusual motor patterns nor any gross physical deformities noted. His speech is clear, relevant and coherent. He has a flat affect, he appears depressed but he is cooperative and pleasant to talk to. Patient claims that his fears in life is of how he would be able to go through life without being satisfied with his love and with life. He claims that he was a happy man until about four years prior to admission when he felt that his love life was lousy and that he never had any girlfriend who loved him as much as he loved her. He denies any visual or auditory hallucinations. Patient is oriented to 3 spheres. There is no memory impairment. He has good fund of general information. He has some insight into his condition, his judgement and reliability is fair.

Patient was admitted to Kent House Ward 3A, which is a closed ward. On admission he was quiet and cooperative however, he appears depressed. During the intake patient was noticed to be guarded and suspicious however, he was cooperative, coherent and relevant. He admitted having some ideas of reference with complaints of depression and preoccupation with sexual activity. On the ward he continues to be seclusive and withdrawn for most part of the day, but he is not a behavior problem on the ward. He has been joining the group therapy and was noticed to be more alert and calm in the group after 4 times being with it.

Case No. 055,443

Name

John M. Webb

Page

2

On admission there were no significant abnormal physical findings noted on this patient. The following laboratory examinations were done on this patient; his VDRL was non-reactive, CBC's not remarkable, his B.U.N. and blood glucose are within normal limits and his routine urinalysis is not remarkable.

MB:dtb

M. Bautista
M. Bautista, M. D.
Resident Psychiatrist

March 20, 1976 - Patient today is discharged from hospital.

Final Diagnosis - 295.90 Schizophrenia, chronic undifferentiated type.

WK:dtb

W. Kenny M.D.
Wm. Kenny, M. D.
Senior Staff Psychiatrist

DISCHARGE SUMMARY - (Part 2, pg. 4)

John Webb a divorced 24 year old man was discharged from Fairfield Hills after 16 days. He signed a voluntary on the condition that his mother pick him up. He had been referred on a 15 day paper from Stamford and had been in that hospital.

COURSE IN HOSPITAL (Comment Concisely):

The more and more I think about this patient, the more and more he reminds me of a shadow. He was admitted with depression, withdrawal and a very marked tendency to have intercourse with any girl he ever met. He was started on medication thorazine 50 mg tid and was discharged with the same medication for two weeks. He gradually became less depressed, less withdrawn and his tendency to have intercourse with girls diminished. The final part of the hospitalization was persuading him that he had to seek out patient care. He refused pointing out that he had had enough of psychiatry and that he had to make it on his own. His point of view was a true one but there was something disturbing about it. He was discharged to his mother with two weeks supply of medication described above.

W. Kenny M.D.

William Kenny M.D.
Staff Psychiatrist

WK:pvb

AFTER CARE PLANNING:

Medication Administered upon Discharge:

Medication	Date Ordered	Goal
Nil		

Patient Referred to:

Professional/Agency	Address	Goal
DuBois Health Center	Stamford, Conn.	Medication and structur
		therapy.

AFTER-CARE RECOMMENDATIONS (to reflect long term goals):

Ability to Handle Own Affairs: *fair*

Living Situation (include address & phone upon discharge: *return to former address*

Employment: *at various jobs*

Financial Support: *self supporting thru various odd jobs*

Recommendations (see pg. 2) *continued psychiatric treatment*

General Recommendations: *was recommended but pt was not accepting of referral*

ADDITIONAL COMMENTS:

As above



1 THE COURT: All right.

2 (Jury entered courtroom at 10:25 a.m.)

3 THE COURT: Good morning, ladies and gentlemen. Our
4 schedule this morning will be as follows: I'm going to charge
5 the jury now, and that should take somewhere around 40, 45
6 minutes. Then you'll start your deliberations. Lunch will
7 be brought in approximately at 12:30.

8 Ladies and gentlemen, you have heard the evidence
9 presented in this case. You have heard the summations of the
10 government attorney and the lawyer for the defense. And now,
11 in the orderly course of the trial, we come to what is known as
12 the charge: that is, the instructions of law which it is my
13 duty to give you.

14 It is exclusively the function of the Court to set
15 forth the rules of law which govern the case, with instructions
16 as to their application. On these legal matters you must take
17 the law as I give it to you; you are not at liberty to do other-
18 wise.

19 On the other hand, you members of the jury are the
20 sole and exclusive judges of the facts.

21 It is your duty to find the facts. You are to
22 recollect and weigh the testimony and draw your own conclusions
23 as to what the ultimate facts are. But you may not go outside
24 the evidence to find the facts, nor resort to guesswork,
25 conjecture or suspicion.

1 You are to apply the law, which the Court gives to
2 you, to the facts as you find them, and, in this way, you will
3 render your ultimate verdicts.

4 Now, as you know, the case involves three criminal
5 charges brought by the government against the defendant, John
6 Webb.

7 Federal law prohibits the taking, by force and
8 violence or by intimidation, from the person or presence of
9 another, money belonging to or in the custody of a bank which
10 is insured by the Federal Deposit Insurance Corporation. This
11 federal statute is known as Title 18, United States Code,
12 Section 2113(a) and reads, in pertinent part, as follows:

13 Whoever, by force and violence, or by intimidation,
14 takes, or attempts to take, from the person or presence of
15 another any property or money or anything of value belong-
16 ing to, or in the care, custody, control, management, or
17 possession of, any bank (shall be guilty of a crime).

18 The defendant is charged with a violation of this
19 federal statute or law.

20 Federal law also prohibits the taking away, with
21 intent to steal, money exceeding \$100 belonging to, or in the
22 custody of a bank which is insured by the Federal Deposit
23 Insurance Corporation. This federal statute is known as Title
24 18, United States Code, Section 2113(b) and reads, in pertinent
25 part. as follows:

Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value exceeding \$100 belonging to, or in the care, custody, control, management, or possession of any bank, . . . (shall be guilty of a crime).

The defendant is also charged with a violation of this federal statute or law.

Federal law also makes it a separate crime for anyone who commits the offense charged in Count One, to jeopardize the life of any person by the use of a dangerous weapon.

Specifically, the statute the defendant is charged in Count Three with having violated, reads as follows:

Whoever, in committing . . . any offense defined in subsection (a) . . . of this section -- which I read to you -- puts in jeopardy the life of any person by the use of a dangerous weapon . . . (shall be guilty of a crime).

The defendant is also charged with a violation of this federal statute or law.

The charges of violations of federal law by the defendant are set forth in an indictment.

Before I read the indictment to you, I should like to point out the function of an indictment.

An indictment by a grand jury is the formal method of accusing this defendant of certain crimes. It merely defines the crimes charged and the manner of their alleged accomplishment.

1 The indictment is without bearing or significance in your
2 consideration of this case and it is to be accorded no weight by
3 you in determining the guilt or innocence of this defendant.
4 By his pleas of not guilty, the defendant has denied each and
5 every allegation contained in the indictment.

6 The indictment reads, in pertinent parts, as follows:

7 Count One: On or about October 13, 1976, at Norwalk,
8 John M. Webb, the defendant herein, willfully and unlawfully
9 did, by force and violence, and by intimidation, take from
10 the person and presence of another money belonging to and
11 in the care, custody, control, management and possession
12 of the Union Trust Company, 700 Connecticut Avenue, Norwalk,
13 Connecticut, the deposits of which were then insured by the
14 Federal Deposit Insurance Corporation, in violation of
15 Title 18, United States Code, Section 2113(a), which I
16 read to you a moment ago.

17 Count Two: On or about the same date, in the District
18 of Connecticut, John Webb, the defendant herein, willfully
19 and unlawfully did take away and carry away, with intent
20 to steal, money in excess of \$100 in the care, custody,
21 control, management and possession of the Union Trust
22 Company, the deposits of which were then insured by the
23 Federal Deposit Insurance Corporation.

24 Count Three: On or about October 13, 1976, at Norwalk,
25 John M. Webb, the defendant herein, willfully and unlawfully

1 did, by force, violence and intimidation, take from the
2 person and presence of another money belonging to and in
3 the care, custody, control and management of the Union
4 Trust Company, the deposits of which were then insured by
5 the Federal Deposit Insurance Corporation, and the defen-
6 dant, John M. Webb, in committing the aforesaid acts, did
7 assault and put in jeopardy the lives of others by use of
8 a dangerous weapon, in violation of federal law.

9 Now, there are two general types of evidence which
10 you may consider in this case. One is direct evidence - such as
11 the testimony of eyewitnesses. The other is circumstantial
12 evidence - the proof of a chain of circumstances pointing to
13 the commission of the offense.

14 Circumstantial evidence may be received and is
15 entitled to such consideration as you may find it deserves
16 depending upon the inferences you think it necessary and reason-
17 able to draw from such evidence. No greater degree of certainty
18 is required when the evidence is circumstantial than when it is
19 direct, for in either case the jury must be convinced beyond a
20 reasonable doubt of the guilt of the defendant. Circumstantial
21 evidence consists of facts proven from which the jury may infer
22 by a process of reasoning other facts sought to be established
23 as true.

24 Different inferences, however, may be drawn from the
25 facts and circumstances in the case, whether proved by direct or

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1 circumstantial evidence. The prosecution asks you to draw one
2 set of inferences while the defendant asks you to draw another.
3 It is for you to decide, and for you alone, which inferences
4 you will draw from the evidence.

5 In this case, ladies and gentlemen, as in all criminal
6 prosecutions, the defendant is presumed to be innocent until
7 proven guilty beyond a reasonable doubt. This presumption of
8 innocence was with this defendant when he was first presented
9 for trial in this case. It continues with him throughout this
10 trial. As far as you are concerned, he is innocent, and he
11 continues innocent unless and until such time as all the
12 evidence and the matters produced here in the orderly conduct of
13 the case, considered in the light of these instructions of law,
14 and deliberated upon by you in the jury room, satisfy you beyond
15 a reasonable doubt that he is guilty.

16 The burden to prove the defendant guilty of the crimes
17 with which he is charged is upon the government. The defendant
18 does not have to prove his innocence. This means that the govern-
19 ment must prove beyond a reasonable doubt each and every element
20 necessary to constitute the crime charged. Whether the burden
21 of proof resting upon the government is sustained, depends not
22 on the number of witnesses, nor on the quantity of the testimony,
23 but on the nature and quality of the testimony.

24 Now, a reasonable doubt means a doubt founded upon
25 reason. As the words imply, it is a doubt as will be entertained

1 by a reasonable person after all the evidence in the case is
2 carefully analyzed, compared and weighed by you. A reasonable
3 doubt may arise not only from the evidence produced, but also
4 from a lack of evidence. Since the burden is upon the govern-
5 ment to prove a defendant guilty beyond a reasonable doubt of
6 every essential element of the crime charged, a defendant has
7 the right to rely upon a failure of the prosecution to establish
8 such proof. However, absolute or mathematical certainty is not
9 required, but there must be such certainty as satisfies your
10 reason and judgment and such that you feel conscientiously
11 bound to act upon it. It is not a fanciful doubt, or a whimsical
12 or capricious doubt, for anything relating to human affairs and
13 depending upon human testimony is open to some possible or
14 imaginary doubt. Reasonable doubt is the kind of a doubt upon
15 which reasonable men or women like yourselves, in the more
16 serious and important affairs in their own lives, would hesitate
17 to act. On the other hand, if all the evidence has been
18 impartially and thoroughly reviewed by you, and if it produces
19 in your minds a settled and abiding conviction as you would be
20 willing to act upon in matters of the highest importance relating
21 to your own affairs, then, and in that event, you would be free
22 from a reasonable doubt. In other words, if the evidence
23 warrants in your judgment the conclusion that a defendant is
24 guilty so as to exclude every other reasonable conclusion, you
25 should declare him to be guilty. On the other hand, if on all

the evidence, you have a reasonable doubt as to the guilt of a defendant, you must find him not guilty.

Now, in performing your function, one of the most important things you have to do is pass upon this matter of credibility: that is, the "believability", of the various witnesses who have appeared before you. In passing on the credibility of each of the witnesses, there are certain considerations you might keep in mind. One of these is the appearance which the witness made when he was on the stand; you should try to "size that person up." Did the person appear to be telling the truth? Did the person appear to be honest? Did the person appear to be intelligent? That is, did the witness appear to be a person who could have observed accurately what is being told to you; who would be likely to have remembered it accurately, and who was capable of reporting it to you accurately?

Another question for you to have in mind regarding each witness is the question as to whether the story he has told you is plausible. Does it ring true, or are there inconsistencies in it? How does it fit in with other evidence in the case which you do believe and other facts you find to have existed? Does it jibe with that evidence and those facts? In short, does the testimony which was given by the particular witness whose credibility you are considering seem to you to be plausible? You have the right to reject testimony even though

1 it is uncontradicted, if you feel you have a justifiable reason
2 for doing so.

3 Testimony given by government law enforcement agents
4 or police officers is entitled to no special or exclusive
5 sanctity. The testimony of a federal agent or police officer
6 who takes the witness stand is subject to the same examination
7 and the same tests as the testimony of any other witness.

8 In weighing the credibility of any medical expert who
9 testified in this case, you are to apply the same considerations
10 you apply to the testimony of any other witness. In addition,
11 you may consider whether he possessed a peculiar and exclusive
12 knowledge and experience in a specialized field. A bit later
13 in the charge, I will give you more specific instructions on
14 the evaluation of the medical testimony in this case.

15 As you know, ladies and gentlemen, in this case the
16 defendant did not testify. The law does not compel a defendant
17 to take the witness stand and testify, and no presumption of
18 guilt may be raised, and no unfavorable inference may be drawn
19 from the fact that a defendant does not see fit to testify.

20 You must not permit such a fact to weigh in the
21 slightest degree against the defendant, nor should it enter into
22 your discussions or deliberations. A defendant is not required
23 to establish his innocence; he need not produce any evidence
24 whatever if he does not choose to do so.

25 As I have indicated, the burden is on the government

1 to prove a defendant guilty beyond a reasonable doubt; if it
2 fails, a defendant has the right to rely on that failure and
3 of right must be acquitted.

4 As you know, the defendant John Webb has been charged
5 in a three-count indictment with three separate violations of
6 the federal bank robbery statute.

7 He is accused, in one count, of robbing a bank of a
8 sum in excess of \$100; in another count, of robbing the bank of
9 a sum of money by means of force and violence or intimidation;
10 and in another count, of putting the life of a bank teller in
11 jeopardy by use of a dangerous weapon, while robbing the bank
12 of a sum of money.

13 Since each count of the indictment charges the defen-
14 dant with a separate crime, you must consider the essential
15 elements of each count separately and return a verdict on each
16 count of either not guilty or guilty. Your verdict on one count
17 should not influence your verdict on any other count.

18 There are five essential elements of the crime charged
19 in Count One of the indictment, each of which the government has
20 the burden of proving beyond a reasonable doubt before there can
21 be a conviction;

22 (1) That the defendant actually was present in the
23 Union Trust Company bank in Norwalk, Connecticut, on October 13,
24 1976.

25 (2) That the defendant at that bank on that date

took money from the person or presence of another.

(3) That the defendant at that bank on that date took such money by force and violence, or by intimidation.

(4) That on that date such money belonged to, or was in the care, custody, control, management, or possession of, that bank, the deposits of which were insured by the Federal Deposit Insurance Corporation.

(5) That the defendant, in taking money from the person or presence of another by force and violence or by intimidation at that bank on that date, acted willfully and with specific criminal intent.

The five essential elements of the crime charged in Count One of the indictment are reflected in five basic questions, your answers to which will determine your verdict on this count:

First: Was the defendant actually present in the Union Trust Company Bank on October 13, 1976?

If the government has failed to sustain its burden of proof beyond a reasonable doubt on this issue, the case is over. You should, therefore, return a verdict of not guilty. On the other hand, if you find that the government has sustained its burden of proving that the defendant was present in that bank on that date, then you should proceed to consider the next essential issue of the crime charged in Count One.

Second: Did the defendant at that bank on that date take money from the person or presence of another?

1 You must decide whether the government has proven
2 beyond a reasonable doubt that at that bank on that date the
3 defendant took - in the sense of seizing, removing or carrying
4 away - money from the person or presence of another. You will
5 note that this element of the crime requires the taking of money
6 either from the person of another or from the presence of
7 another.

8 If the government has failed to sustain its burden of
9 proof on this issue as to the defendant, you should return a
10 verdict of not guilty on Count One.

11 But, if you find that the government has sustained
12 its burden of proving this element of the crime charged, then
13 you should proceed to consider the third essential element,
14 reflected in this question:

15 Did the defendant at that bank on that date take such
16 money by force and violence, or by intimidation?

17 By "force and violence" is meant the use of actual
18 physical pressure of constraint. It means such a display of
19 physical prowess as is calculated to inspire fear of physical
20 harm to anyone opposing the will of the person exerting the
21 force. But "force and violence" does not necessarily mean
22 actual physical contact, although that may be involved. Any
23 conduct which is intended to cause bodily fear or terror is
24 sufficient to constitute "force and violence" as used in the
25 statute.

"Intimidation" has a somewhat, although not altogether, different meaning. Intimidation is sometimes referred to as "constructive force." In general, it means to put in fear or to inspire with fear. This fear or terror may be inspired without physical violence or even spoken threats; it may be accomplished merely by a menacing attitude and a display of force. Threats by word or by gesture may constitute intimidation, if the effect of such words or gestures is to put in fear of physical harm the person toward whom they are directed.

This putting in fear must arise from the conduct of the defendant rather than the mere timidity of the person in whose presence or from whom the taking of money occurred. On the other hand, this fear need not be so great as to result in terror, panic or hysteria.

It should be emphasized that it is not necessary for you to find that the taking of money was accomplished by means of both force and intimidation. The taking of money by either force or intimidation is sufficient to comply with the requirements of the statute.

If the government has failed to sustain its burden of proof on this issue, you should return a verdict of not guilty.

On the other hand, if you find that the government has sustained its burden of proving this issue, then you should proceed to consider the next essential element of the crime charged in Count One, reflected in this question:

1 Fourth: Did such money belong to, or was it in the
2 care, custody, control, management or possession of, that bank,
3 the deposits of which were insured by the Federal Deposit
4 Insurance Corporation?

5 The terms "belong to", "care of", "custody", "control",
6 "possession" and "management", as used here, have their ordinary
7 meaning and should be so applied by you.

8 And, of course, with respect to the Federal Deposit
9 Insurance Corporation, you have evidence that you can consider
10 on this issue already submitted to you in the evidence.

11 If the government has failed to sustain its burden of
12 proof on this issue, you should return a verdict of not guilty.

13 On the other hand, if you find that the government
14 has sustained its burden of proving this issue, then you should
15 proceed to consider the next and final essential element of the
16 crime charged in Count One, reflected in this question:

17 Fifth: Did the defendant act willfully and with
18 specific criminal intent?

19 The taking of the money from the person or presence
20 of another by force and violence or by intimidation would be
21 willful only if it were done voluntarily and purposely, with a
22 specific intent to do that which the law forbids. Mere laxity,
23 inadvertence, carelessness, negligence or even gross negligence,
24 would not be enough to show willfulness.

25 Proof of specific intent is required before there can

1 be a conviction. Specific intent, as the term suggests, means
2 more than a general intent to commit an act which the law
3 requires to be done. A person who knowingly does what the law
4 forbids, purposely intending to violate the law, acts with
5 specific intent.

6 You must decide whether the government has proven
7 beyond a reasonable doubt that the defendant acted willfully
8 and with specific intent to take money from the person or
9 presence of another by force and violence or by intimidation.

10 If the government has failed to sustain its burden
11 of proof on this issue, you should return a verdict of not
12 guilty on Count One.

13 On the other hand, if you find that the government
14 has sustained its burden of proving that the defendant acted
15 willfully and with specific intent to steal, and if you have
16 found that the government has proven beyond a reasonable doubt
17 each of the other essential elements of the crime charged in
18 Count One, then you should find the defendant guilty as charged
19 in this count. However, before you can return a verdict of
20 guilty on this count, you must consider the issue of mental
21 responsibility which I will charge you on in just a moment or two.

22 Now, we have discussed Count One. We'll now proceed
23 to Count two.

24 There are five essential elements of the crime charged
25 in Count Two of the indictment, each of which the government has

1 the burden of proving beyond a reasonable doubt, before there
2 can be a conviction. If you find that the government has not
3 sustained this burden with regard to any one element, then the
4 defendant must be acquitted of the crime charged in this
5 count of the indictment.

6 First: Was the defendant actually present in the
7 Union Trust Company Bank in Norwalk on October 13, 1976?

8 With respect to this first essential element, if you
9 find that the government has failed to sustain its burden of
10 proof, you should return a verdict of not guilty.

11 But, if you find that the government has sustained its
12 burden of proof on this issue, then you should consider the
13 next essential element of the crime charged in Count Two, and
14 that is:

15 Second: Did the defendant take and carry away from
16 that bank on that date money in excess of \$100?

17 You must decide whether or not the government proved
18 that issue beyond a reasonable doubt.

19 If it failed to, you should return a verdict of not
20 guilty.

21 But, if you find the government did sustain its burden
22 on this essential element of the crime charged, then you should
23 proceed to the next essential element, which is the third one:

24 Did such money belong to, or was it in the care,
25 custody, control, management or possession of, that bank, on that

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1 date?

2 I have previously defined the meaning of these terms
3 to you and, therefore, I will not repeat them.

4 If the government has failed to sustain its burden of
5 proof on this issue, you should return a verdict of not guilty
6 on Count Two.

7 On the other hand, if you find that the government has
8 sustained its burden of proving this issue, then you should
9 proceed to consider the next essential element of the crime
10 charged in Count Two, reflected in this question:

11 Were the deposits of that bank on that date insured
12 by the Federal Deposit Insurance Corporation?

13 If you find the government has sustained its burden of
14 proving this issue, then you should proceed to the next and final
15 essential element of the crime charged in Count Two, reflected
16 in this question:

17 Did the defendant act willfully and with intent to
18 steal?

19 On this issue, you must decide whether the government
20 has proven beyond a reasonable doubt that the defendant acted
21 willfully and with specific intent to steal. I have previously
22 defined these terms and, therefore, I will not repeat them
23 here, for I trust you remember them and will apply them under
24 Count Two as you did under Count One.

25 If the government has failed to sustain its burden of

proof on this issue, you should return a verdict of not guilty.

But, if you find that the government has sustained its burden of proving this issue, and if you find the government has proven beyond a reasonable doubt each of the other essential elements of the crime charged in Count Two, then you should find the defendant guilty as charged. However, as with Count One, before you can return a verdict of guilty, you must consider the issue of mental responsibility, and I will charge you on that in a moment or two.

Now, we've discussed Count One and Count Two, and we'll now discuss Count Three.

There are three essential elements of the crime charged in Count Three of the indictment, each of which the government has the burden of proving beyond a reasonable doubt before there can be a conviction of the defendant:

(1) That the defendant did commit the offense charged in Count One of the indictment and that you have found him guilty on that count.

(2) That in committing the offense charged in Count One, the defendant jeopardized the life of a person by use of a dangerous weapon.

(3) That the defendant in jeopardizing the life of a person by use of a dangerous weapon, acted willfully and with specific criminal intent.

The three essential elements of the crime charged in

Count Three of the indictment are reflected in three basic questions, your answers to which will determine your verdict:

First: Did the defendant commit the offense charged in Count One of the indictment and have you found him guilty as charged?

Obviously, before you may find the defendant guilty on Count Three, you must first have found him guilty on Count One.

If you have found the defendant not guilty on Count One, you cannot find him not -- you should return a verdict of not guilty on Count Three. Let me repeat that again. If you have found the defendant not guilty on Count One, you must return a verdict of not guilty on Count Three.

The mere fact that I am charging you on Count Three is not intended as any indication whatsoever of how the Court anticipates you will find on Count One. But if you have found the defendant guilty on Count One, then you should proceed to consider the second essential element of the crime charged in Count Three, reflected in this question:

Second: Did the defendant, in committing the crime charged in Count One, put in jeopardy the life of any person by use of a dangerous weapon?

To "put in jeopardy the life" of a person "by the use of a dangerous weapon" means to expose such person to risk of death by the use of such dangerous weapon. Fear of death alone is not enough; there must be proof that lives were objectively

1 in danger. On this issue, you may consider whether or not the
2 gun was loaded.

3 If the government has failed to sustain its burden
4 of proof on this issue, you should return a verdict of not guilty
5 on Count Three.

6 But, if you find that the government has sustained
7 its burden of proving that the defendant put in jeopardy the
8 life of any person by the use of a dangerous weapon, then you
9 should proceed to consider the next and final essential element
10 of the crime charged in Count Three, reflected in this question:

11 Did the defendant act willfully and with the specific
12 criminal intent?

13 I have previously defined the terms "willful" and
14 "specific criminal intent" for you and, therefore, I will not
15 repeat them here, for I trust you remember them and will apply
16 my instructions under Count Three.

17 If the government has failed to sustain its burden of
18 proof on this issue, you should return a verdict of not guilty.

19 On the other hand, if you find that the government has
20 sustained its burden of proving that the defendant acted will-
21 fully and with specific criminal intent in jeopardizing the life
22 of a person by use of a dangerous weapon, and if you have found
23 that the government has proven beyond a reasonable doubt each
24 of the other essential elements of the crime charged in Count
25 Three, then you should find the defendant guilty as charged on

1 this count. However, as with Counts One and Two, before you
2 can return a verdict of guilty on Count Three, you must consider
3 the issue of mental responsibility, on which I will now charge
4 you.

5 If you have found that the government has failed to
6 prove beyond a reasonable doubt any one or more of the essential
7 elements of the count you have under consideration, you must
8 find the defendant not guilty on that count.

9 However, even if you have found that the government
10 has proven each and every essential element of the charge or
11 charges under consideration, then you must consider and apply
12 the following rules of law concerning the issue of the defend-
13 ant's mental responsibility at the time of the crime.

14 Now, as you know, there has been much testimony on
15 the issue of defendant's mental state and whether the defendant
16 lacked sufficient mental capacity -- capacity to be held respon-
17 sible for the criminality of his acts.

18 Now, on this issue, I am not going to marshal or even
19 comment on the evidence. The issue concerning the mental
20 capacity of the defendant has been concisely joined by the
21 parties during the trial. Moreover, during the summations, both
22 attorneys discussed this issue at length. Any further review
23 of the factual contentions by me on this issue will, I fear,
24 merely tax your patience.

25 However, it is appropriate for me at this time to

1 instruct you on certain principles of law as they may apply
2 to the facts as you find them to be true in this case.

3 Under our law a person is not responsible for
4 criminal conduct if at the time of such conduct as a result of
5 mental disease he lacked substantial capacity either to appreci-
6 ate the wrongfulness of his conduct or to conform his conduct
7 to the requirements of law.

8 Now, let me repeat what I have just said. Under our
9 law, a person is not responsible for criminal conduct if at the
10 time of such conduct as a result of mental disease he lacked
11 substantial capacity either to appreciate the wrongfulness of
12 his conduct or to conform his conduct to the requirements of law.

13 In other words, to focus this definition on the case
14 before you, if you find that the government proved beyond a
15 reasonable doubt all the essential elements of the crime
16 charged, which I have previously discussed with you, you must
17 then decide if the government proved beyond a reasonable doubt
18 that Mr. Webb did not have a mental disease, or that despite the
19 mental disease, he had the substantial capacity to appreciate
20 the wrongfulness of his conduct and had the substantial capacity
21 to conform his conduct to the requirements of the law.

22 You will note that under this rule there are three
23 distinct items for your consideration.

24 Your first question is whether on October 13, 1976 at
25 the time of the alleged crime, Mr. Webb then had a mental

disease.

If you are satisfied beyond a reasonable doubt that the defendant then had no mental disease and if you are further satisfied beyond a reasonable doubt as to the essential elements of the crime, as I have outlined them to you, it would be your duty to convict.

If, on the other hand, you are not satisfied beyond a reasonable doubt that the defendant had no mental disease, you must decide whether as a result of such mental disease Mr. Webb lacked the substantial capacity to appreciate the wrongfulness of his conduct. In this respect, the term "appreciate" indicates more than mere knowledge. It indicates a deeper awareness or understanding of the legal and moral wrongfulness of his conduct.

If, upon all the evidence, you are not satisfied beyond a reasonable doubt that the defendant had the substantial capacity to appreciate the wrongfulness of his conduct, then it is your duty to acquit.

But if you are satisfied beyond a reasonable doubt that Mr. Webb did substantially appreciate the wrongfulness of his conduct, then you must decide whether, as a result of mental disease, Mr. Webb had the substantial capacity to conform his conduct to the requirements of the law. Here again the government must prove beyond a reasonable doubt that Mr. Webb had the substantial capacity to conform his conduct to the requirements of law.

1 The term "substantial capacity" as used in these last
2 two considerations does not mean "complete capacity" or "no
3 capacity." The government need not prove that he had complete
4 capacity but only "substantial capacity" to appreciate the
5 wrongfulness of his conduct and to conform such conduct to the
6 requirements of the law.

7 In considering this issue of mental responsibility,
8 you may consider the evidence that has been admitted as to the
9 defendant's mental condition before and after the offense
10 charged, as well as the evidence as to the defendant's mental
11 condition on that date. The evidence as to the defendant's
12 mental condition before and after that date was admitted solely
13 for the purpose of assisting you to determine the defendant's
14 condition on the date of the alleged offense.

15 You have heard the evidence of psychiatrists who
16 testified as expert witnesses. An expert in a particular field
17 is permitted to give his opinion in evidence. In this connec-
18 tion, you are instructed that you are not bound by medical
19 labels, definitions, or conclusions as to what is or is not a
20 mental disease. What psychiatrists may or may not consider a
21 mental disease for clinical purposes, where their concern is
22 treatment, may or may not be the same as mental disease for the
23 purpose of determining criminal responsibility. Whether the
24 defendant had a mental disease must be determined by you under
25 the explanation of those terms as it has been given to you by

the Court.

There was also testimony of lay witnesses, with respect to their observations of defendant's appearance, behavior, speech, and actions. Such persons are permitted to testify as to their own observations and other facts known to them and may express an opinion based upon those observations and facts known to them. In weighing the testimony of such lay witnesses, you may consider the circumstances of each witness, his opportunity to observe the defendant and to know the facts to which he has testified, his willingness and capacity to expound freely as to his observations and knowledge, the basis for his opinion and conclusions, and the nearness or remoteness of his observations of the defendant in point of time to the commission of the offense charged.

You may also consider whether the witness observed extraordinary or bizarre acts performed by the defendant, or whether the witness observed the defendant's conduct to be free of such extraordinary or bizarre acts. In evaluating such testimony, you should take into account the extent of the witness's observation of the defendant and the nature and length of time of the witness's contact with the defendant. You should also bear in mind that an untrained person may not be readily able to detect mental disease and that the failure of a lay witness to observe abnormal acts by the defendant may be significant only if the witness has prolonged and intimate contact with the

1 defendant. You may also consider bank surveillance photographs
2 of the defendant in determining whether defendant's actions on
3 the day of the offense were bizarre or extraordinary.

4 You are not bound by the opinions of either expert or
5 lay witnesses. You should not arbitrarily or capriciously
6 reject the testimony of any witness, but you should consider the
7 testimony of each witness in connection with the other evidence
8 in the case and give it such weight as you think it deserves.

9 If upon all the evidence you are not satisfied beyond
10 a reasonable doubt that the defendant had the substantial
11 capacity to conform his conduct to the requirements of the law,
12 then it is your duty to acquit.

13 But, if you are satisfied beyond a reasonable doubt
14 that the defendant had the substantial capacity to appreciate
15 the wrongfulness of his conduct and to conform his conduct to
16 the requirements of law, and if you find the government has
17 established beyond a reasonable doubt the other essential elements
18 of the crime or crimes, you should find Mr. Webb guilty on the
19 charge or charges under consideration.

20 In conclusion, ladies and gentlemen, I impress upon
21 you that you are duty-bound as jurors to apply the law, as you
22 have been advised by the Court, to the facts of this case, as
23 you find them.

24 Now, take this case with you to the jury room.
25 Determine the facts on the basis of the evidence, as it has been

1 presented to you; apply the law as I outlined it to you; then
2 render a verdict fairly, uprightly, and without a scintilla
3 of prejudice.

4 When you reach a verdict, it must be unanimous. It
5 is the duty of each juror to discuss and consider the opinions
6 of the other jurors. Despite that, in the last analysis, it
7 is your individual duty to make up your own mind, and to decide
8 this case upon the basis of your own individual judgment and
9 conscience.

10 With that, the jury may retire to the jury room.
11 As soon as the exhibits are brought in, but not before that,
12 elect a foreman or forelady. Proceed at that point to your
13 deliberation of the case, and, as I said, after the exhibits
14 have been brought in to you. You must render a separate verdict
15 as to each one of the three counts. When you reach your
16 verdict, inform the Clerk through the bailiff. Then return
17 to the courtroom and announce your verdicts.

18 Now, the verdicts will be oral. Your foreman or
19 forelady will be asked by the Clerk, "How do you find on Count
20 One?", and the response would be, "We find the defendant
21 guilty," or, "We find the defendant not guilty," and so forth
22 Count Two and Count Three, so it is an oral verdict. you don't
23 have to write anything.

24 At this time, I will excuse the two alternates and
25 thank them very much for serving, Mr. Coleman and Mr. Nicole.

1 While it is a bit of a disappointment that after hearing a case,
2 you are not going to deliberate with your colleagues, you did
3 serve a very valuable purpose. If one of the jurors had become
4 ill, ordinarily, I would have to call a mistrial, but with your
5 presence here, you would have substituted. In fact, the last
6 trial I had we used up all the alternates. In this case, I'm
7 pleased to see that everyone was healthy and had no other reasons
8 not to appear.

9 But you are now excused. You may stay for lunch, if
10 you like. Lunch will be brought in, as I said, in a little over
11 an hour, and we did order lunch for you, if you would like to
12 stay, but you'll be in a different room. I'll leave it to your
13 judgment, you can talk it over with the marshal.

14 One last thing. When lunch is brought in, you'll be
15 in your deliberations. Please do not continue to discuss the
16 case while anyone else is in the jury room, while the marshals
17 are handing out lunch. Just stop your deliberations. After they
18 leave, you can do whatever you want. You can just have lunch and
19 relax, or you can continue your deliberations.

20 So, if anyone else is in the jury room at any time
21 for any reason, stop your deliberations.

22 With that, the jury may retire to the jury room.

23 (Jury left courtroom at 11:10 a.m.)

24 THE COURT: I'll take exceptions to the charge.

25 MR. BOWMAN: Yes, your Honor. The first exception I

1 have, your Honor, is your Honor referred at the beginning of --
2 of the charge on mental responsibility to the question of whether
3 the defendant had sufficient capacity, and although your Honor
4 said later in the test that -- that the issue was whether or not
5 he lacked substantial capacity, I believe that the use of the
6 word "sufficient capacity" is confusing to the jury.--

7 THE COURT: When did I say that?

8 MR. BOWMAN: -- and could have misled them.

9 At the very beginning of the mental responsibility
10 charge.

11 THE COURT: Well, I showed this charge to you yester-
12 day, and to Mr. Goldberger.

13 MR. BOWMAN: I thought we discussed that yesterday.

14 THE COURT: I did make a note, and that was on page --
15 and I did correct it.

16 I still can't find it, where I said "sufficient"
17 rather than "substantial", unless it was a slip of the tongue.

18 MR. BOWMAN: In the beginning, your Honor --

19 THE DEFENDANT: Andy, why didn't you express the
20 point that the gun wasn't loaded? That I claimed --

21 (Discussion off the record.)

22 THE COURT: You know, I don't see it. It could have
23 been a slip of the tongue. I'm looking down, I see the word
24 "substantial".

25 MR. BOWMAN: My hearing was sufficient, your Honor.

1 THE COURT: Do you recall.

2 MR. BOWMAN: I should say I heard the word "sufficient",
3 not that my hearing was sufficient.

4 THE COURT: Did you hear me say the word "sufficient"?

5 MR. HARTMERE: Your Honor, you said "sufficient"
6 right at the very beginning when you went into mental responsi-
7 bility. However, after that, you gave them the test twice, and
8 you mentioned "substantial", I think, about seven or eight
9 times.

10 THE COURT: It was probably a slip of the tongue.
11 I'll bring them back and correct that.

12 MR. BOWMAN: With respect to the Court's characteriz-
13 ing the three counts of the indictment, I believe your Honor
14 stated before going through the essential elements that the
15 first count charged the defendant with robbing the bank, that
16 the second count charged him with robbing by force and violence,
17 and the third count charged him with robbing by use of a danger-
18 ous weapon. My understanding is that the first count is robbery
19 by force and violence, the second count is larceny, taking and
20 carrying away, and the third count is robbery by use of a
21 dangerous weapon. That was my recollection.

22 THE COURT: My recollection is he is accused in one
23 count of robbing a bank, I didn't say in the first count --

24 MR. BOWMAN: That's correct, your Honor.

25 THE COURT: -- and another count of robbing a bank by

359
1 force for violence and intimidation, another count of putting
2 the life of a bank teller in jeopardy by use of a dangerous
3 weapon, by robbing a bank of a sum of money, and that point is
4 overruled on two grounds: one, I did not say: "In Count One,"
5 and two, this charge was submitted to you yesterday -- or for
6 the last few days, and I gave it exactly in those terms.

7 The first objection is well taken. I think it was just
8 a slip of the tongue. I didn't mean to say "sufficient". If I
9 did, I'll correct it.

10 MR. BOWMAN: I have just two other matters, your Honor.

11 With respect to the reasonable doubt charge, there
12 was -- your Honor juxtaposed the difference between reasonable
13 doubt and whimsical doubt. Your Honor also made a reference to
14 the fact that it was not just a possible doubt, and I believe --

15 THE COURT: I said "possible"?

16 MR. BOWMAN: I believe that you did use the word
17 "possible".

18 THE COURT: It was not a fanciful doubt or whimsical
19 doubt or a capricious doubt, and you think I said "possible
20 doubt"?

21 MR. BOWMAN: I think so. That's my recollection.

22 Mr. Hartmere?

23 MR. HARTMERE: I don't remember that.

24 THE COURT: Well, I think I'll check that.

25 MR. BOWMAN: And the final --

1 THE COURT: If I did say it, I'll correct it.

2 MR. BOWMAN: And the final matter, your Honor, is that
3 with respect to your Honor's charge on the function of the indict-
4 ment, I believe that it was a correct statement on the function
5 of an indictment, but that -- I believe it is also important
6 that the jury know that the grand jury does not hear from the
7 defense lawyer and does not hear the defense side of the case.

8 THE COURT: The last objection is overruled on the
9 grounds that I showed you that aspect of the charge several
10 days ago and at no time did you object to it, and, in any event,
11 it is a standard, usual form that I gave, and I will not bring
12 the jury in solely to add something that would be way out of
13 context to something I gave early in the charge.

14 For all the reasons, I reject the objections, except
15 the two we talked about. One is that I will bring the jury back
16 and correct the word "sufficient" as a slip of the tongue, --
17 rather than "substantial", and I will ask Mr. Russell to check
18 my reasonable doubt part of the charge to see if I said a
19 "possible" which is not in my notes.

20 Incidentally, the record should note my charged is
21 typed out, and I read it from the typewritten charge.

22 Mr. Russell, would you check the reasonable doubt?

23 (Portion of notes on reasonable doubt charge, as
24 referred to, were read.)

25 THE COURT: Is that what you object to?

1 MR. BOWMAN: Yes.

2 THE COURT: What's wrong with that?

3 MR. BOWMAN: It was just my understanding of the law
4 that the Second Circuit did not feel it was appropriate to
5 mention the word.

6 THE COURT: What case was that?

7 MR. BOWMAN: It was a recent opinion that I've read.
8 I can't give your Honor the name of the case.

9 THE COURT: Well, I'm going to overrule the objection
10 on the grounds that this is a standard reasonable doubt charge
11 that I've used over the years. It has been sustained on appeal,
12 and I believe time and time again the Court of Appeals for the
13 Second Circuit has stated that, in cases from this District,
14 where all the Judges charge exactly as I've just charged, that
15 the charge was satisfactory.

16 The only thing I recall the Second Circuit ever
17 commenting on a charge from the District of Connecticut on
18 reasonable doubt was the words that some Judges used to use in
19 this District, "moral certainty", and I have taken that out.

20 Your objection is noted, but I reject it on the
21 grounds that you have had the charge for several days, you
22 didn't bring it to my attention, you cite no law to support your
23 position, and, lastly, I believe this charged has been sustained
24 on numerous occasions by the Court of Appeals in cases from this
25 Court and from other Judges of this Court.

1 Bring in the jury. But they don't have to sit, just
2 put them in front.

3 (Jury entered courtroom at 11:20 p.m.)

4 THE COURT: Ladies and gentlemen, in your absence, the
5 attorneys called to my attention that there was a slip of the
6 tongue on my part, and I would like to correct it.

7 Under the definitions and instructions on mental
8 responsibility, several times I used the words "substantial
9 mental capacity", "substantial capacity", and you probably heard
10 me say that several times. At one time, apparently I said
11 "sufficient" rather than "substantial".

12 If you recall my saying "sufficient", take that from
13 your mind. I meant to say "substantial".

14 So, with that instruction, you may now go back to the
15 jury room.

16 (Jury left courtroom at 11:21 p.m.)

17 THE COURT: The exhibit may now be brought into the
18 jury room with the indictment.

19 Counsel will please stand in attendance until you see
20 the lunch being brought into the jury room. When you see the
21 marshals bring in the lunch, then you, at that point, are excused
22 for one hour.

23 (Recess taken.)

24 THE COURT: The record should note that the jury has
25 sent in the following note:

1 "The jury requests the five questions concerning
2 Count One and five questions concerning Count Two, and the
3 three questions concerning Count Three of the Judge's charge
4 in writing."

5 I have met with counsel and it has been decided that
6 we will follow the usual and customary practice in this District
7 of not submitting the Judge's charge in writing to the jury,
8 but that if the jury would like me to repeat orally the five
9 questions concerning Count One, the five questions concerning
10 Count Two, and the three questions concerning Count Three, I
11 would, of course, repeat those questions to them.

12 Bring in the jury.

13 Incidentally, the note isn't signed, so I'll ask the
14 jury in the future if they send in any notes, to please sign the
15 note by their foreperson.

16 MR. HARTMERE: Your Honor want to make that note a
17 Court exhibit?

18 THE COURT: Yes, and the note will become a Court
19 exhibit.

20 (Jury entered courtroom.)

21 THE COURT: Ladies and gentlemen, we have received
22 your note, but we do not know who sent it to us. Who is the
23 foreperson?

24 THE FOREPERSON: I am.

25 THE COURT: Okay. If you send in any more notes, would

1 you kindly sign your name?

2 THE FOREPERSON: Sure.

3 THE COURT: This is the note: "The jury requests
4 the five questions concerning Count One and five questions
5 concerning Count Two, and the three questions concerning Count
6 Three of the Judge's charge in writing."

7 That's the note as we have it.

8 The practice in the District of Connecticut, ladies
9 and gentlemen, and I believe in most Districts throughout the
10 United States, is that the Judge's charge in writing should not
11 be given to the jury, for several reasons: One, first of all,
12 many times a Judge makes notes just before going on the bench
13 and has many things in handwritten form, and that is even true
14 in this case; two, that the experience has been that when the
15 juries get the entire charge, it takes them quite a while to
16 pass it around, some read it, some don't, and it's just not a
17 good practice.

18 In this case, I cannot give you my charge in writing,
19 but if you would like me to orally repeat the five questions
20 concerning Count One, and the five questions concerning Count
21 Two, and the three questions concerning Count Three, I'll be
22 more than happy to do that.

23 Is there any expression on that?

24 THE FOREPERSON: I think that would be helpful.

25 THE COURT: Very well. The five questions that I

1 read were as follows:

2 The five essential elements of the crime charged in
3 Count One of the indictment are reflected in five basic ques-
4 tions, your answers to which will determine your verdict on
5 Count One, and the five questions that I presented with the
6 instructions that I gave you with respect to each question were
7 as follows:

8 First: Was the defendant actually present in the
9 Union Trust Company Bank on October 3rd -- 13th, 1976?

10 Question two: Did the defendant at that bank on that
11 date take money from the person or presence of another?

12 Three: Did the defendant at that bank on that date
13 take such money by force and violence, or by intimidation?

14 Four: Did such money belong to, or was it in the
15 care, custody, control, management or possession of, that bank,
16 the deposits of which were insured by the Federal Deposit
17 Insurance Corporation?

18 And five: Did the defendant Act willfully and with
19 specific criminal intent?

20 Those were the five questions with respect to Count
21 One.

22 The five questions with respect to Count Two were
23 as follows:

24 First: Was the defendant actually present in the
25 Union Trust Company Bank in Norwalk on October 13, 1976?

1 Second: Did the defendant take and carry away from
2 that bank on that date money in excess of \$100?

3 Third: Did such money belong to, or was it in the
4 care, custody, control, management or possession of, that bank
5 on that date?

6 Fourth: Were the deposits of that bank on that date
7 insured by the Federal Deposit Insurance Corporation?

8 And five: Did the defendant act willfully and with
9 intent to steal?

10 Now, the three questions that I presented, and I'll
11 read to you, and I trust you remember my instructions again
12 with respect to each of the questions, were as follows:

13 First: Did the defendant commit the offense charged
14 in Count One of the indictment and have you found him guilty
15 as charged therein?

16 Second: Did the defendant, in committing the crime
17 charged in Count One, put in jeopardy the life of any person by
18 use of a dangerous weapon?

19 And then three: Did the defendant act willfully and
20 with specific criminal intent?

21 That's it, ladies and gentlemen.

22 (Jury left courtroom at 12:55 p.m.)

23 THE COURT: Did you record that it was Mr. Verhoeff,
24 Juror 8, who responded as the foreman? I will turn the note
25 over to the Clerk to be marked as a Court exhibit.

1 Please stay in attendance until the lunch is brought
2 in. At that point, you are excused for one hour.

3 (Recess taken for lunch.)
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United States District Court

FOR THE

DISTRICT OF CONNECTICUT

FILED

MAR 1 3 03 PM '77

MICROFILM

United States of America

MAR 1 1977 v.

NEW HAVEN JOHN M. WEBB

No. N-76-134 Criminal

U.S. DISTRICT COURT
NEW HAVEN, CONN.

On this 28th day of February, 1977 came the attorney for the government and the defendant appeared in person and by counsel

It Is ADJUDGED that the defendant upon his plea of "not guilty" and the jury having returned a verdict of guilty as to Counts One and Two has been convicted of the offense of violation of Title 18, Section 2113(a) and (b), of the United States Code (did by force, violence and by intimidation take from the person and presence of another, money belonging to a bank, the deposits of which were then insured by the F.D.I.C. and took money from the bank with intent to steal)

as charged in Counts One and Two, a not guilty verdict having been returned on Count Three

AND WHEREFORE

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is ADJUDGED that the defendant is guilty as charged and convicted.

It Is ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of twelve (12) years, as a general sentence on Counts One and Two.

It Is ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Robert C. Zimprun

United States District Judge

The Court recommends commitment to "a facility where psychiatric assistance will be available to the defendant such as the F.C.I., Springfield, Missouri or Butner, North Carolina.

Clerk.

¹ Insert "by [name of counsel], counsel" or without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." ² Insert (1) "guilty and the court being satisfied there is a factual basis for the plea," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. ³ Insert "in count(s) number" if required. ⁴ Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. ⁵ Enter any order with respect to suspension and probation. ⁶ For use of Court to recommend a particular institution.

UNITED STATES DISTRICT COURT

FILED
FEB 21 3 22 PM '77
U.S. DISTRICT COURT
NEW HAVEN, CONN.

Docket Number 1-76-134

UNITED STATES OF AMERICA

-VS-

Judge Robert C. Farnham
(District Court Judge)

JOHN MARK WEBB

NOTICE OF APPEAL

Notice is hereby given that JOHN MARK WEBB, Defendant, appeals to
the United States Court of Appeals for the Second Circuit from the ☐ Judgment ☐ order ☐ other
(specify) OF CONVICTION entered in this action on February 23, 1977.
(Date)

Address

Robert C. Farnham
(Counsel for Appellant)
Federal Public Defender
770 Chapel Street
New Haven, Connecticut 06510
Attorney for Defendant

Date February 23, 1977
To:

Phone Number (203) 326-1200

ADD ADDITIONAL PAGE IF NECESSARY

(TO BE COMPLETED BY ATTORNEY)

TRANSCRIPT INFORMATION - FORM B

► **QUESTIONNAIRE**

- ☐ I am ordering a transcript
☒ I am not ordering a transcript
Reason:
☐ Daily copy is available
☐ U.S. Attorney has placed order
☐ Other. Attach explanation

► **TRANSCRIPT ORDER**

- Prepare transcript of
☐ Pre-trial proceedings
☐ Trial
☒ Sentence
☐ Post-trial proceedings

► DESCRIPTION OF PROCEEDINGS
FOR WHICH TRANSCRIPT IS
REQUIRED (INCLUDE DATE).

JAN 18, 77 JAN 21, 77
JAN 26, 77
JAN 27, 77 change
JAN 28, 77 +

The ATTORNEY certifies that he will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)) ► Method of payment ☐ Funds ☐ CJA Form 21

ATTORNEY'S signature

DATE

► **COURT REPORTER ACKNOWLEDGEMENT**

To be completed by Court Reporter and
forwarded to Court of Appeals.

Date order received

Estimated completion date

Estimated number
of pages.

Date

Signature

(Court Reporter)

COPY FOR DEFENDANT

79

BEST COPY AVAILABLE

